

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Anne Walton and Mario DePillis, Jr.

Date application filed with the Town Clerk: December 20, 2007

Nature of request: A Special Permit to expand the second floor kitchen on a non-conforming three-family house on a non-conforming lot, under Section 9.22 of the Zoning Bylaw

Address: 27 Gaylord Street (Map 14A, Parcel 200, R-G Zoning District)

Legal notice: Published on December 26, 2007 and January 2, 2008 in the Daily Hampshire Gazette and sent to abutters on December 26, 2007

Board members: Thomas Simpson, Barbara Ford and Albert Woodhull

Submissions: The petitioner submitted the following with the application:

- A letter from Anne H. Walton, dated 12/15/07 describing the proposed addition to the kitchen;
- Floor plans of existing and proposed changes to the second floor and the second floor kitchen, drawn by Design Division, Inc. and dated 9/2/07;
- A Management Plan for the three-family dwelling, including a request for a waiver requiring that a site plan be prepared by a registered professional;
- A Town GIS map showing all the exterior lighting for the property, the marked parking places, and the location of the proposed second floor kitchen extension;
- A Chapter 34 Compliance Review prepared by Ann Marshall of Design Division Inc. for the proposed renovation;
- A letter from Anne H. Walton, dated 12/13/07 and notarized 12/14/07, stating that the tenants currently in the building are parents Mario and Freda DePillis, with whom they have discussed the remodeling extensively at dinner for several years. Therefore the applicant did not send a written abutter's notice to the tenants.

Zoning staff submitted the following:

- Special Permit FY78-19 that allowed conversion of a two-family to a three-family dwelling;
- The relevant section of the 1978 Zoning Bylaw, Article XI.4.a that allowed for "Special Exceptions" for non-conforming property;
- Information about the historic house, which is part of the Prospect-Gaylord National Register District;
- Town GIS maps of the historic area and an aerial view of the house and parking.

Site Visit: January 8, 2008

The Board met with Ms. Walton at the site and observed the following:

- A 19th century Queen Anne clapboard house with a large two-story bay in front;
- A "tight" downtown neighborhood with small lots and houses close together;

- The ample parking area on the lot which can easily park 5-6 cars;
- The small kitchen in the second floor apartment that is proposed to be extended outward over the first floor room;
- The remainder of the second floor apartment that is in the process of being remodeled.

Public Hearing: January 10, 2008

Board member Barbara Ford disclosed at the beginning of the hearing that she has known the DePillis family for many years, but that her acquaintance with them will not affect her deliberations on the Special Permit application. Moreover, there is no financial impact for her in relation to this case.

The petitioner spoke to the proposal at the hearing and stated the following:

- She and her husband are in the process of remodeling the second floor apartment of a three-family home;
- The exterior of the house will be affected by enlarging the kitchen; therefore a Special Permit is needed for a non-conforming multi-family house on a non-conforming lot;
- The proposal is to bump out the kitchen wall to achieve a gain of about 40 square feet for the kitchen;
- The addition would be for the second floor only and would not increase the footprint of the house;
- The outstanding shadbush outside the kitchen window will not be affected by the construction;
- The trim, color and siding of the addition would match that of the rest of the house;
- There will be no new exterior lights added; current outside lighting is sufficient.

Marlo DePillis, father-in-law of the petitioner gave some background information about the house:

- He and his wife owned the house from 1964 to 2004 when he sold it to his son and wife;
- The lot was always configured as it is now, but he previously owned the house next door as well;
- In 1979 a third floor apartment was added to the house (Special Permit ZBA FY78-19);
- The parking regulation have changed since 1979; at that time 1 ½ spaces were required per dwelling unit, and their parking area was designed for 5 cars;
- There have never been more than five vehicles for the three dwelling units;
- They do not wish to increase the size of the parking area because there is a large garden right next to the parking area that they wish to keep.

Mr. Woodhull noted that the number of parking spaces has been grandfathered.

Mr. Simpson asked about occupancy. The petitioner said that when the second floor unit is finished, she and her husband will move to that unit, and the third floor unit will be rented. Occupancy will not increase in the house; it will be the same as it was prior to the renovation.

The Board noted that Section 9.200 of the Zoning Bylaw authorizes the Building Commissioner to allow extension of a non-conforming single or two-family house without a Special Permit under certain conditions, but this option is not available for a three-family house. Thus a Special Permit is necessary for the small enlargement to the second floor kitchen. The remainder of the second floor renovations will need only a Building Permit.

No member of public spoke to the proposal.

Ms. Ford made a motion to close the evidentiary portion of the hearing. Mr. Woodhull seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board agreed that since only the kitchen expansion was part of the application, a professionally drawn site plan was not necessary and the Amherst GIS map of the property was sufficient.

Mr. Simpson asked if there was any objection from the Board to granting this proposal. There was none, so the Board spent the Public Meeting devising conditions for the Special Permit if it were to be granted.

Findings:

Section 9.22 of the Zoning Bylaw allows the Board of Appeals to authorize, under a Special Permit, an extension of a non-conforming building as long as the extension “shall not be substantially more detrimental to the neighborhood than the existing non-conforming ... building.” The Board finds that the proposed addition will not detract from the house or the neighborhood, and should enhance the appearance of the house.

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the kitchen expansion is a minor addition that will not affect the overall size of the house or the impact on the neighborhood.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the addition does not increase the size of the house footprint.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because it deals with the second floor kitchen only and has no impact on pedestrians or vehicles.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the renovation of the second floor apartment is being achieved by professional builders in order to make the kitchen more useable and efficient;

10.386 – The proposal ensures that it is in conformance with the parking regulations of the town as they were in 1978 when the house was expanded to a three-family dwelling.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the property is connected to Town water and sewer, and the Management Plan covers refuse/recycling removal appropriately.

10.391 and 10.395 – The proposal protects unique or important natural, historic or scenic features because the kitchen addition is small and will blend in with the overall Queen Anne design of the house.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because no changes in outdoor lighting are proposed.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the proposed kitchen expansion with conditions. Ms. Ford seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit to expand the second-floor kitchen of a non-conforming three-family house on a non-conforming lot, under Section 9.22 of the Zoning Bylaw, at 27 Gaylord Street (Map 14A, Parcel 200, R-G Zoning District) as requested in the application filed by Anne Walton and Mario DePillis Jr., with conditions.

THOMAS SIMPSON

BARBARA FORD

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to expand the second-floor kitchen of a non-conforming three-family house on a non-conforming lot, under Section 9.22 of the Zoning Bylaw, at 27 Gaylord Street (Map 14A, Parcel 200, R-G Zoning District) as requested in the application filed by Anne Walton and Mario DePillis Jr., subject to the following conditions:

1. The addition to the kitchen shall be built according to the plans approved by the Board at a public meeting on January 10, 2008 and on file in the office of the Zoning Board of Appeals, Planning Department.
2. The appearance of the exterior of the kitchen addition shall match that of the existing building.
3. Management of the premises shall be conducted as described in the Management Plan approved by the Board at a public meeting on January 10, 2008.
4. One of the three dwelling units shall be owner-occupied.
5. The five parking places shall be maintained as currently exist, and shall not be expanded.
6. This permit supercedes all previous Special Permits for the premises.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE